

Express Mail Label
No. EV 432652295 US

MTC 6851.3 39-21(52888)
PATENT

REMARKS

The undersigned attorney would like to thank the Examiner for the time spent discussing the present Office action on or about March 17, 2004. As indicated during this telephone conference, Applicant wishes to bring prosecution of this long-pending application to a favorable conclusion as soon as possible. To that end, as further detailed below, claims 12, 23, 24, and 26-29 have been amended in a manner consistent with the Examiner's comments in the present Office action.

Accordingly, Applicant respectfully requests reconsideration and further examination of the present application.

I. Status of the Claims

Claims 1-6, 11, 12 and 23-31 are currently pending. With this Amendment D, claims 12, 23, 24, and 26-29 have been amended. More specifically:

- Claim 12 has been amended for the purpose of clarification, consistent with the Examiner's suggestion on page 2 of the present Office action.
- Claims 23 and 27 have been amended for the purpose of clarification, consistent the Examiner's observation on page 2 of the present Office action.
- Claims 24 and 26-29 have been amended to more particularly claim certain embodiments of the present invention. Support for the amendment to claim 24, and thus for claims 26-29, may be found in the specification, for example, on page 6, first paragraph. Additional support for the amendment of claim 27 may be found, for example, on page 5, first full paragraph.

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II. Rejection under 35 U.S.C. §112, first paragraph

A. Claims 23 and 27

Claims 23 and 27 have been amended to remove the term "10-undecanoic acid," thus obviating the present rejection thereof. Accordingly, reconsideration is respectfully requested.

B. Claims 24-31

Claim 24, as well as claims 26, 28 and 29 which depend therefrom, have been amended so as to no longer require caprylic acid in the fatty acid-based active ingredient. Accordingly, these claims now call for a fatty acid-based active ingredient comprising a mixture of pelargonic acid and capric acid, or salts thereof.

In view of the Office's comments on page 4 (line 7), as well as the undersigned attorney's above-noted telephone conference with the Examiner, it is Applicant's understanding that claim 24 as amended, as well as claims 25-31 depending therefrom, are clearly supported by the present application and, therefore, fully satisfy the requirements of 35 U.S.C. §112, first paragraph.

In view of the foregoing, Applicant respectfully requests reconsideration of the present rejection of claims 24-31.

III. Allowable Subject Matter

A. Claims 1-6, 11, 12 and 23

Applicant acknowledged that, consistent with the present Office action on page 2 (fifth paragraph) and the amendment to claim 12 presented in this Amendment D, claims 1-6, 11 and 12 are now allowable.

In as much as claim 23 depends from claim 3, and furthermore that this claim has been amended to remove the term "10-undecanoic acid" therefrom, Applicant respectfully submits this claim is allowable, as well.

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B. Claims 24-31

Consistent with the undersigned attorney's telephone conference with the Examiner, it is Applicant's understanding that, subject to a final review of the references of record herein, the Examiner believes claims 24-31, as presented in this Amendment D, are allowable. Accordingly, favorable review and allowance of these claims are respectfully requested.

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CONCLUSION

In view of the foregoing, favorable reconsideration and allowance of all pending claims is respectfully requested.

* A check in the amount of \$110.00, in payment of the applicable 1 month extension fee is enclosed. The Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. 19-1345.

Respectfully submitted,



Derick E. Allen, Reg. No. 43,468
SENNIGER, POWERS, LEAVITT & ROEDEL
One Metropolitan Square, 16th Floor
St. Louis, Missouri 63102
(314) 231-5400

DEA/VMK/skd
* Enclosure